

LOPER BRIGHT ENTERPRISES, INC., *et al.*

Plaintiffs-Appellants,

v.

GINA RAIMONDO, in her official capacity as
Secretary of Commerce, *et al.*

Defendants-Appellees.

Case No. 21-5166

Appellants Loper Bright Enterprises, Inc.; H&L Axelsson, Inc.; Scombrus One LLC; and Lund Marr Trawlers LLC hereby respond to the Court’s Order, dated July 19, 2021, and certify the following:

Loper Bright Enterprises, Inc.; H&L Axelsson, Inc.; Scombrus One LLC; and Lund Mar Trawlers LLC are the Appellants in this case and were among the Plaintiffs in the proceedings below. Several additional parties were plaintiffs in the district court but were dropped on consent motion as misjoined under Federal Rule of Civil Procedure 21. Those misjoined parties were Cape Trawlers, Inc.; Golden Nugget LLC; Mount Vernon LLC; and Nancy Elizabeth LLC.

Gina Raimondo, in her official capacity as Secretary of Commerce; the Department of Commerce; Richard Spinrad, in his official capacity as Administrator of the National Oceanic and Atmospheric Administration; the National Oceanic and Atmospheric Administration; Chris Oliver, in his official capacity as Assistant Administrator for NOAA Fisheries; and the National Marine Fisheries Service are the Appellees in this case and were the Defendants in the proceedings below. At various times, other named individuals serving in an official capacity were defendants but have been automatically substituted. *See* Fed. R. Civ. P. 25(d); *cf.* Fed. R. App. P. 43(c). At the time of the filing of the Complaint, Wilbur L. Ross, Jr. served as Secretary of Commerce and Neil Jacobs served as Acting Administrator of the National Oceanic and Atmospheric Administration.

There were no *amici curiae* in the district court, and there are no *amici* before this Court. There are no intervenors.

With respect to the requirements of Federal Rule of Appellate Procedure 26.1 and Circuit Rule 26.1, Appellants are New Jersey corporations engaged in commercial fishing operations. They are subject to the regulatory requirements under legal challenge in the instant case. Appellants are neither parent companies nor subsidiaries or affiliates of any other entities. Appellants have not issued shares or debt securities to the public.

II. Ruling Under Review

The ruling under review is the Order and Memorandum Opinion by Judge Emmet G. Sullivan in the United States District Court for the District of Columbia, dated June 15, 2021, which, in relevant part, denied Appellants' motion for summary judgment and granted Appellees' cross-motion for summary judgment. The district court entered final judgment on June 23, 2021.

The June 15, 2021 Memorandum Opinion is published in electronic database format as *Loper Bright Enters., Inc. v. Raimondo*, No. 20-0466, 2021 WL 2440511 (D.D.C. June 15, 2021), and *Loper Bright Enters., Inc. v. Raimondo*, No. 20-0466, 2021 U.S. Dist. LEXIS 112020 (D.D.C. June 15, 2021).

III. Related Cases

This case has not previously been before the Court. Appellants are unaware of pending related cases before this Court or any other court, as defined by Circuit Rule 28(a)(1)(C). There is, however, a similar challenge to the legality of the New England Industry-Funded Monitoring Omnibus Amendment presently before the United States District Court for the District of Rhode Island. *See Relentless, Inc., et al., v. Department of Commerce, et al.*, No. 20-00108 (D.R.I. filed Mar. 3, 2020).

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Dated: August 18, 2021

Respectfully submitted,

/s/ Ryan P. Mulvey

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Counsel for Appellants

CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2021, I filed the foregoing in the United States Court of Appeals for the District of Columbia Circuit using the Appellate CM/ECF System. Service will be accomplished by the Appellate CM/ECF System.

/s/ Ryan P. Mulvey
Ryan P. Mulvey

Counsel for Appellants